IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
TUESDAY, THE TWENTY FIRST DAY OF SEPTEMBER
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE DR JUSTICE G.YETHIRAJULU
WRIT PETITION NO : 16951 of 2004

Between:
Smt. K. Padmalatha Staff Nurse, Govt. Homoeo. Hospital, Motigalli, Hyderabad R/o No. 1-8-657, Azamabad, Hyderabad

..... PETITIONER

AND

The Superintendent, Government of Homoeo. Hospital, Motigalli, Hyderabad

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ, order or direction, to direct the respondent to follow Section 60 Civil Procedure Code and restrain the Respondent from recovering any amount from the petitioner's salary in pursuance of the order of the Court of the 1st Addl. Senior Civil Judge, Ranga Reddy District at NTR Nagar dated 5-4-2004 in E.P. No. 37/2004 in O.S. No. 674/1999.

Counsel for the Petitioner:MR.T.RAGHUNATH

Counsel for the Respondent: GP FOR MEDICAL HEALTH & FAMI.WELFARE

The Court at the stage of admission made the following :

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THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 16951 of 2004

ORDER:

The petitioner approached this Court through this writ petition seeking a direction to the respondent to follow Section 60 of the Code of Civil Procedure while deducing the salary of the petitioner in pursuance of the order of the Civil Court, dated 05.04.2004 in E.P.No.37 of 2004 in O.S.No.674 of 1999.

In O.S.No.224 of 2000, a money decree was passed against the petitioner by the Civil Court. Subsequently, E.P.No.144 of 2001 was filed. The Civil court ordered attachment of the salary of the petitioner, on 16.07.2002, for recovery of amount of Rs.23,490/-. Accordingly, the respondent recovered Rs.1000/- from the salary of the petitioner from September, 2002 and thereafter, Rs.250/- per month from October, 2002 to August, 2004 i.e., for 24 months.

The grievance of the petitioner is that the Execution Court without giving a gap of one year, again ordered attachment of the salary in E.P.37 of 2004 in O.S.No.674 of 1999. Therefore, he approached this Court seeking the relief mentioned above.

When the E.P. is pending before the Execution Court, the petitioner ought to have made an application before the Execution Court to draw its attention to the relevant provisions of law regarding the passing of order of attachment of salary. Instead of approaching the Execution Court, the petitioner approached this Court seeking directions in a pending civil matter by showing his employer as the respondent in this petition. Therefore, the writ petition cannot be maintained.

Accordingly, the writ petition is dismissed at the stage of admission. No order as to costs.

21st September, 2004

Nn.

Copies to:

1. The Superintendent, Government of Homoeo. Hospital, Motigalli, Hyderabad.
2. Two copies to G.P. for Medical Health & Family welfare, High Court Buildings, High Court of A.P., Hyderabad (O.U.T)
3. Two C.D. copies.